

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

FILED
U.S. DISTRICT COURT
BRUNSWICK, GA
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CLERK 

CLARENCE MICHAEL OSTEEN,

Petitioner,

vs.

JOSE M. VAZQUEZ, Warden,

Respondent.

CIVIL ACTION NO.: CV206-178

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Osteen asserts he could not be sentenced to any more than five (5) years' imprisonment, the statutory maximum sentence for the "least serious single drug conspiracy." (Doc. No. 18, p. 3.) Osteen also asserts his trial was a "show trial" because his innocence or guilt were "virtually irrelevant" to the outcome. (Doc. No. 18, pp. 5-6.) Osteen contends the Magistrate Judge failed to acknowledge the case law relied on by the United States v. Booker, 543 U.S. 220, 125 S. Ct. 738, 160 L. Ed. 2d 621 (2005), Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004), and Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000), decisions, which is the same case law he cited previously during the course of his criminal proceedings. Osteen avers the Magistrate Judge found it does not matter whether his rights were violated, even though he raised the same issues on previous occasions. Osteen asserts he has no recourse whatsoever to remove the unconstitutionally applied enhancements,

even though he is "being held unconstitutionally." (Doc. No. 18, p. 8.) Osteen also asserts Apprendi and its progeny are automatically retroactively applicable because these cases do not apply a new rule of law but merely rely on prior precedent.

Osteen's Objections reinforce what the Magistrate Judge stated in his Report— simply because Osteen was unable to obtain relief on previous occasions, the remedies afforded to him on those occasions cannot be deemed inadequate or ineffective. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Respondent's Motion to Dismiss (Doc. No. 9) is **GRANTED**. Osteen's petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 31st day of January, 2007.


JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA